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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,571	07/16/2003	E. Michael Ackley JR.	02280.002470.1	7101
5514	7590	02/15/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			YAN, REN LUO	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	
			2854	

DATE MAILED: 02/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,571

Applicant(s)

ACKLEY ET AL.

Examiner

Ren L. Yan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-36, 38-46, 59 and 60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-36 and 38-46 is/are allowed.
- 6) ☒ Claim(s) 59 and 60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2-2-2006 has been entered.

Claims 59 and 60 are objected to for the following reasons:

In claim 59, last three lines, the recitations of "the first and second print stations" and "the print stations" do not find proper antecedent basis.

In claim 60, the recitation of "the composite image" on line 12 lacks proper antecedent basis. Additionally, the last three lines of claim 60 contain the same problems as pointed out above regarding claim 59.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 59 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 91/01884.

WO 91/01884 teaches an apparatus for forming a registered image on a non-planar printing surface of a shaped edible piece 10 as claimed including a transport surface 22 with at

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least one shaped recess 23 having a non-planar surface corresponding to the shaped edible piece and a vacuum hole 29 positioned within and at the deepest portion of the shaped recess for holding the edible piece 10 laterally, longitudinally and rotationally within the shaped recess at a predetermined position, a first offset printer station 35 at a first position along a transport path that forms a first component image in ink on the shaped piece while in the predetermined position, a second printer station 41(laser marking system 41) downstream from the first printer station that forms a second component of a registered image on the edible piece 10 in registration with the first component image of the registered image, and a vacuum pump to supply vacuum to the vacuum hole 29 to maintain the edible piece in the predetermined position within the recess while the edible piece is at and between the first and second print stations such that multiple printing operations can be performed in proper registration on the edible piece. See Figs. 1-3 and pages 8 and 9 of WO 91/01884 for details. It should be pointed out that laser marking (engraving or etching) is a form of printing well accepted in the printing art. Claim 59 only requires the first component image to be printed in ink and claim 60 does not require the images to be formed in ink at all. Therefore, it is believed that the claimed first and second printer stations that form a registered image on a shaped edible piece are met by the printing structure of WO 91/01884. Additionally, the broad means for applying a pressure differential to the vacuum hole to maintain the edible piece in the predetermined position within the recess while the edible piece is at and between the first and second printer stations as recited in claim 59 and the vacuum pump and means for allocating pressure differential applied to the edible piece at and between the first and second printer stations as recited in claim 60 read on the vacuum pump and the vacuum chambers 27 and 28 as taught in WO 91/01884.

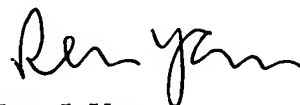
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Claims 33-36 and 38-46 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ren L. Yan whose telephone number is 571-272-2173. The examiner can normally be reached on 8:30am-5:00pm.

- If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 571-272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ren L Yan
Primary Examiner
Art Unit 2854

Ren Yan
Feb. 13, 2006